

Notice of Allowability	Application No.	Applicant(s)	
	10/776,383	MOUSA ET AL.	
	Examiner	Art Unit	
	Brian-Yong S. Kwon	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Telephonic Interview on 01/11/10 and 12/18/09.
2. ☒ The allowed claim(s) is/are 31,33,34,36,37 and 39-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20100111</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

/Brian-Yong S Kwon/
Primary Examiner, Art Unit 1614

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DETAILED ACTION

1. Claims 31, 33-34, 39 and 40-41 as amended below are allowable. The election of species requirement, as set forth in the Office action mailed on 10/16/06 and 10/21/08, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). Claims 35-38 and 42-49, directed to non-elected species, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In addition, upon further consideration in light of the applicant's remark and the telephonic interview on 12/18/09 and 01/11/10, **the notice of non-compliant amendment mailed 12/18/2009 is hereby withdrawn.**

In view of the above noted withdrawal of the election of species requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jack P. Friedman on 12/18/09 and 01/11/10.

The application has been amended as follows:

In the Claims:

In claim 31, line 2, delete [a nicotine structure consisting of nicotine or a polymeric form thereof;] and replace with --nicotine--.

In claim 31, lines 3-4, delete [structure comprising a nicotinic acid derivative,] and replace with --, wherein the nicotinic acid analog is conjugated to a member selected from the group consisting of acrylic acid ethylene co-polymer, polyethyleneglycol (PEG), and polylactic acid--.

In claim 31, lines 4-5, delete [wherein the nicotinic acid analog structure in the composition is] and replace with --and wherein the nicotine and the nicotinic acid analog in the composition are--.

In claim 31, lines 6-8, delete [, and wherein the nicotinic acid analog structure in the composition is configured to promote said angiogenesis in the subject independent of the nicotine structure in the composition].

In claim 33, line 1, delete [32] and replace with --31--; and in line 2, delete [structure].

In claim 36, line 1, delete [structure].

Claims 32, 35, 38 and 50-64 are cancelled.

Conclusion

4. Claims 31, 33-34, 36-37 and 39-49 are allowed.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Kwon whose telephone number is (571) 272-0581. The examiner can normally be reached Tuesday through Friday from 9:00 am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached on (571) 272-0718. The fax number for this Group is (571) 273-8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications may be obtained from Private PAIR only. For more information about PAIR system, see <http://pair-direct.uspto.gov> Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/Brian-Yong S Kwon/
Primary Examiner, Art Unit 1614